

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re:

GT Real Estate Holdings, LLC,

Debtor.¹

Chapter 11

Case No. 22-10505 (KBO)

**NOTICE PURSUANT TO 11 U.S.C. § 546(b)(2) OF
M.C. DEAN, INC.'S PERFECTION OF
MECHANICS LIEN UNDER SOUTH CAROLINA LAW**

M.C. Dean, Inc. ("M.C. Dean"), by and through undersigned counsel, hereby provides notice of its mechanic's lien under 11 U.S.C. § 546(b)(2), and respectfully states as follows:

1. M.C. Dean is a Virginia corporation with its principal offices in Tysons, Virginia, and is authorized to do business in South Carolina.

2. Prior to June 1, 2022, (the "Petition Date"), M.C. Dean furnished labor and materials pursuant to an agreement with Mascaro/Barton Malow, a joint venture comprised of Mascaro Construction, L.P. and the Barton Malow Company ("Mascaro/Barton Malow") and general contractor for the subject project, and at the request of the Debtor for improvement of real estate owned by the Debtor in York County, South Carolina.

3. The labor and materials were actually used in the construction, erection, alteration and/or repair of buildings or structures described as the Carolina Panthers Training Facility project located in York County, South Carolina.

3. The total value of the labor and materials is Nine Million Twenty-Three Thousand Five Hundred Thirty-Nine and 50/100 Dollars (\$9,023,539.50) which is due from Mascaro/Barton

¹ The Debtor and the last four digits of its taxpayer identification number are: GT Real Estate Holdings, LLC (9589). The location of the Debtor's principal office is 800 South Mint Street, Charlotte, NC 28202.

Malow, exclusive of interest and costs, including reasonable attorney's fees as applicable ("M.C. Dean Lien Amount").

4. M.C. Dean has not received any payment on account of the M.C. Dean Lien Amount and said amount remains due and owing.

5. South Carolina's mechanics lien statute, S.C. Code § 29-5-10, provides in relevant part:

(a) A person to whom a debt is due for labor performed or furnished or for materials furnished and actually used in the erection, alteration, or repair of a building or structure upon real estate . . . shall have a lien upon the building or structure and upon the interest of an owner of the building or structure in the lot of land upon which it is situated to secure the payment of the debt to him.

6. Under South Carolina law, a mechanics lien arises "inchoate" when labor or services are performed or material furnished. *See Preferred Savings and Loan Assoc., Inc. v. Royal Garden Resort, Inc.*, 389 S.E.2d 853, 854 (S.C. 1990).

7. A lien under South Carolina law is perfected if the lien claimant, within ninety (90) days after ceasing to perform or completing performance of services for such building or structure, files in the office of the Register of Deeds or Clerk of Court of the County in which the building or structure is situated, a statement of just and true account of the amount due, after deducting all credit due, together with a description of the property intended to be covered by the lien sufficiently accurate for identification, with the name of the owner of the property, if known, and services upon the owner. *See* S.C. Code Ann. § 29-5-90 (1976, as amended).

8. On June 24, 2022, M.C. Dean filed a Notice of Mechanics Lien in York County, South Carolina, in the amount of \$9,023,539.50, plus interest at the contract rate and/or statutory pre-judgment rate and attorney's fees and costs, against the real property stated in the Notice of Mechanics Lien in accordance with applicable South Carolina law. A true and correct copy of the

Notice of Mechanics Lien with a description of the real property and a Verified Statement of Account is attached hereto as **Exhibit A** and incorporated herein by reference.

9. Accordingly, pursuant to 11 U.S.C. § 546(b)(2), M.C. Dean provides notice to the Debtor, Debtor's counsel, the Office of the United States Trustee, the Debtor's secured lenders, and all other interested parties, of M.C. Dean's rights as a perfected lienholder in the real property stated in the Notice of Mechanics Lien pursuant to South Carolina law.

10. M.C. Dean files this Notice to preserve, perfect, maintain and continue its rights as a lienholder in the real property under South Carolina law in order to comply with the requirements of South Carolina law and 11 U.S.C. § 546(b)(2).

11. The filing of this Notice shall not be deemed a waiver of M.C. Dean's rights to (i) seek relief from the automatic stay to foreclose its lien, or (ii) assert any other rights and/or defenses.

12. The filing of this Notice shall not be construed as an admission that such filing is required under Title 11 of the United States Code, South Carolina law, or any other applicable law. Additionally, M.C. Dean makes no admission of fact or law, and asserts that its lien is senior to and/or effective against any entities that may have acquired rights to the real property stated in the Notice of Mechanics Lien previously, and reserves all rights to amend and/or supplement this notice.

[SIGNATURE BLOCK ON FOLLOWING PAGE]

Dated: June 28, 2022

CROSS & SIMON, LLC

/s/ Kevin S. Mann

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